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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,537	12/05/2003	Reem Safadi	80113-0392 (D3086)	8296
20480 7590 02/08/2007 STEVEN L. NICHOLS RADER, FISHMAN & GRAVER PLLC 10653 S. RIVER FRONT PARKWAY SUITE 150 SOUTH JORDAN, UT 84095			EXAMINER LEE, JINHEE J	
			ART UNIT 2174	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/08/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/728,537

Applicant(s)

SAFADI ET AL.

Examiner

Jinhee J. Lee

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 12-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation "the system" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-11 and 20-30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Re claims 1-11 and 20-30, claim 1-11 and 20-30 claims a data structure, however, it appears the limitations of said claim are merely claiming statements defining various items, therefore said limitations do not appear to be defining any functional interrelations which permits the computer program's functionality (or data structure's functionality) to be realized.

In view of the above, claims 1-11 and 20-30 are therefore directed to non-statutory subject matter.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-11, 20-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Ebert (20010042063).

Re claim 1, Ebert discloses a method comprising the steps of:

receiving a first type of content description information from a first content source (a retrieved set of data, see abstract for example);

receiving a second type of content description information from a second content source (subsequently retrieved sets of data, see abstract for example); and

presenting an aggregated content description selection graphical user interface to the user (displayed in lenses for example);

tracking content selections for the user profile over the first content source and the second content source (see paragraph 0009 and 0010 and abstract for example).

Re claim 2, Ebert discloses a method, wherein tracking content selection for a user profile over the first content source and second content source comprises receiving a content selection indication corresponding to a user profile via a selection device (see paragraph 0009, 0010, 0014 for example).

Re claim 3, Ebert discloses a method, wherein tracking content selection for a user profile over the first content source and second content source comprises receiving

content description information about the first content and the second content from their respective sources (see paragraph 0012 and 0013 for example).

Re claim 4, Ebert discloses a method, wherein receiving content description information about the first content and the second content from their respective sources comprises receiving content description information via an application program interface (inherent that there would be an application program interface, i.e. using a computer system for example).

Re claim 5, Ebert discloses a method, further comprising the step of creating a list of favorite content selections for the user profile (see paragraph 0016 and 0075 for example).

Re claim 6, Ebert discloses a method, wherein creating the list of favorite content selections for the user profile comprises maintaining a data structure containing entries for each content selection (see paragraph 0016 and 0075 for example).

Re claim 7, Ebert discloses a method, wherein maintaining a data structure containing entries for each content selection comprises creating an entry representing a content selection upon receipt of a content selection indication (see abstract for example).

Re claim 8, Ebert discloses a method, wherein maintaining a data structure containing entries for each content selection comprises incrementing an entry representing a content selection upon receipt of a content selection indication (see abstract for example).

Re claim 9, Ebert discloses a method, further comprising the step of presenting the list of favorite content selections upon receipt of a favorite list presentation request (see paragraph 0016 and 0075 for example).

Re claim 10, Ebert discloses a method, further comprising presenting the list of favorite content selections as a content selection graphical user interface (see paragraph 0016 and 0075 for example).

Re claim 11, Ebert discloses a method, wherein presenting the list of favorite content selections as a content selection graphical user interface comprises presenting the list of favorite content selections via a display device coupled to a computer device (see paragraph 0016 and 0075 and abstract for example).

Re claim 20, Ebert discloses a computer-readable carrier including computer program instructions that instruct a computer to perform the steps of:

receiving a first type of content description information from a first content source (see abstract for example);

receiving a second type of content description information from a second content source (see abstract for example); and

tracking content selections for a user profile over the first content source and the second content source (see paragraph 0009 and 0010 for example).

Re claim 21, Ebert discloses a computer-readable carrier, further including computer program instructions that instruct a computer to perform the step of creating a list of favorite content selections for the user profile (see paragraph 0016 and 0075 for example).

Re claim 22, Ebert discloses a method comprising: receiving content description information for a first type of content from a first content source; receiving additional content description information for a second type of content from a second content source; and presenting said content description information from both said first and second content sources in a single menu of said graphical user interface (see abstract for example).

Re claim 23, Ebert discloses a method, further comprising tracking content selections for a particular user profile (see paragraph 0009 and 0010 for example).

Re claim 24, Ebert discloses a method, wherein tracking content selection for a user profile comprises receiving a content selection indication corresponding to a user profile via a selection device (see paragraph 0009, 0010 and 0014 for example).

Re claim 25, Ebert discloses a method, further comprising creating a list of favorite content selections for the user profile (see paragraph 0012 and 0013 for example).

Re claim 26, Ebert discloses a method, wherein creating the list of favorite content selections for the user profile comprises maintaining a data structure containing entries for each content selection (see paragraph 0012 and 0013 for example).

Re claim 27, Ebert discloses a method, wherein maintaining a data structure comprises storing multiple user profiles in said data structure (see paragraph 0012, 0013 and 0044 for example).

Re claim 28, Ebert discloses a method, further comprising presenting the list of favorite content selections upon receipt of a favorite list presentation request (see paragraph 0016 and 0075 for example).

Re claim 29, Ebert discloses a method, further comprising presenting the list of favorite content selections as a content selection graphical user interface (see paragraph 0016 and 0075 for example).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 12-16, 18-19 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ebert in view of Kelts (20020059603).

Re claim 12, Ebert substantially discloses an apparatus for providing a content selection graphical user interface based on content selections for one or more user profiles across a first content source and a second content source, the system comprising:

- a processing unit (R/3 for example);

- an application program interface (Inherent using R/3 for example) for receiving second content information about the second content from the second source, and formatting the second content information for incorporation into the content selection graphical user interface;

- and

- a program module comprising instructions operative for the processing unit to:
 - receive a first type of content description information from a first content source;
 - receive second type of content description information from a second content source; and

- track content selection for an active user profile over the first content source and second content source (see abstract for example).

Ebert does not explicitly disclose:

- a set-top device coupled to a television device and to a selection device;

- a selection device coupled to the set-top device, said selection device comprising a user interface for receiving content selection.

However, Kelts teaches of a set-top device coupled to a television device and to a selection device (see paragraph 0039 for example);

a selection device coupled to the set-top device, said selection device comprising a user interface for receiving content selection (see paragraph 0039 for example). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the set-top device coupled to a television device and to a selection device; and the selection device coupled to the set-top device, said selection device comprising a user interface for receiving content selection as taught by Kelts on the system of Ebert in order to provide user interface for cable programming.

Re claim 13, note that Ebert discloses wherein the program module further comprises instructions operative for the processing unit to : create a list of favorite content selections for the user profile; and, present a content selection graphical user interface consisting of the list of favorite content selections upon receipt of a favorite list presentation request (see paragraph 0016 and 0075 for example).

Re claim 14, note that Ebert discloses, wherein the content selection graphical user interface receives commands unrelated to content selection (see paragraph 0009 for example).

Re claim 15, note that Ebert discloses, wherein said user interface of said selection device is a keypad (inherent in a computer system).

Re claim 16, note that Kelts teaches of wherein said user interface of said selection device is a touch screen (see paragraph 0046 for example).

Re claim 18, note that Kelts teaches of wherein the first content description information comprises scheduling information (see paragraph 0193 for example).

Re claim 19, note that Kelts teaches of wherein the second content description information comprises scheduling information (see paragraph 0193 for example).

Re claim 30, Ebert substantially discloses a method as set forth in claim 22 above. Ebert does not explicitly disclose generating said graphical user interface with a set-top device. However, Kelts teaches of generating a graphical user interface with a set-top device (see paragraph 0039 for example). It would have been obvious to one having ordinary skill in the art at the time the invention was made to generate a graphical user interface with a set-top device as taught by Kelts on the system of Ebert in order to provide user interface for cable programming.

10. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ebert in view of Kelts, as applied to claim 12 above, and further in view of McCarthy et al. (6498955).

Re claim 17, the device of Ebert as modified by teachings of Kelts discloses an apparatus as set forth in claim 12 above. It does not explicitly disclose wherein said user interface of said selection device is a microphone. However, McCarthy et al. teaches of a user interface being a microphone (see column 5 lines 3-5 for example). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the microphone of McCarthy et al. on the apparatus of Ebert/Kelts in order to provide an input of instruction.

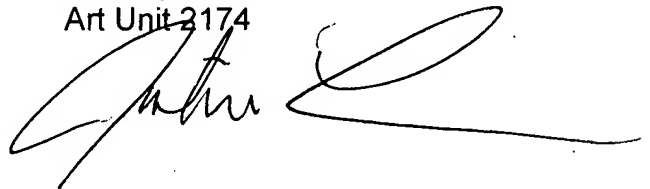
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jinhee J. Lee whose telephone number is 571-272-1977. The examiner can normally be reached on M- F at 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on 571-272-2100 ext. 74. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jinhee J Lee
Primary Examiner
Art Unit 2174

A handwritten signature in black ink, appearing to read 'Jinhee J. Lee', is written over the printed name and title.